

REMARKS

Claims 9, 10, 12 – 18, 21, 29, 30, 32 – 37, 40, 41, 43 – 48, 53, 54 and 56 – 61 are pending. A marked-up version entitled “Version with markings to show changes made” is attached as a separate page and indicates how the originally filed claims have been modified to produce the clean version submitted in the current amendment.

The claims have been amended to expedite prosecution of this patent application. The claims have not been amended either to avoid prior art or to satisfy any Patent Act requirement, including § 112’s requirements concerning the patent application’s form. The amendments to the claims are fully supported by the originally filed specification and thus, no new matter has been added. For example, support for the addition of the inner and outer cups “consisting of a thermoplastic” can be found at page 15 where the “suitable plastics that may be used to form the container” include “thermoplastics.” Support for the amendment that the sealed gap consists of a “gaseous material” can be found, for example, at page 7 where the “air” gap is described as being composed of gaseous materials.

The present claims clearly distinguish over the prior art. For example, the prior art does not teach nor disclose a “child-spill proof cup” that is dual wall and has the insulating ability claimed in applicant’s invention. In another example, the prior art taught a container that required a metal surface on the surface facing the gap in order to maintain good insulating ability of a container. The prior art achieved this result, for example, by applying a metal coat to the plastic surface facing the gap. In another

example, the prior art taught a container that had a double dual wall structure, with a gas having a low thermal conductivity, inside this double dual wall structure.

In contrast, the present claimed invention is a "cup assembly of a child spill-proof cup" and thus, as described in the specification:

It is understood that the phrase "spill-proof" means the use of a cup by children with a cover and spout that minimizes spilling when tilted or put upside down but does not mean that the cup prevents leakage when tilted or put upside down. These "spill proof cups" are typically used by children under the age of five. Conventionally, the cups are injection molded of high density polyethylene ("HDPE") and are composed of a cup body and a removable screw-top or comparable lid. Moreover, there are typically two cup sizes commonly used: (1) a 6-ounce cup and (2) a 9-ounce cup. The 6-ounce cup is approximately 4" tall with a lid diameter of 2 1/4". The 9-ounce cup is approximately 6" tall with the same lid diameter as the 6-ounce cup. The lid typically has a spout on top where the child can access the liquid contents.

It is further understood that the dimensions of the "spill-proof" cup assembly may be limited to: (a) a maximum outside diameter of the outer cup by the size of a typical child's hand so the child can sufficiently grasp the cup; (b) a maximum height of the cup so that so that the cup does not easily tip over when containing liquid; and (c) a minimum inside diameter of the inner cup that meets the fluid volume requirement of the cup (e.g. 6 or 9 oz. cup). Once these dimensions are specified, the dimension of the "air" gap between the outside diameter of the inner cup and the inside cup of the outer cup will be limited within a fixed range.

Since the size and shape of the "child spill-proof cup" is limited, due to a typical child's hand, there is no teaching or suggestion that one could achieve the claimed insulating ability. In fact, as discussed above, there is a "teaching away" that one could achieve the claimed insulating ability due to the size constraints – "(a) a maximum outside diameter of the outer cup by the size of a typical child's hand so the child can sufficiently grasp the cup; (b) a maximum height of the cup so that so that the cup does not easily tip over

when containing liquid; and (c) a minimum inside diameter of the inner cup that meets the fluid volume requirement of the cup (e.g. 6 or 9 z. cup)."

In addition, there is no teaching or suggestion that the claimed insulating ability could be achieved with the "child spill-proof cup" consisting only of a thermoplastic dual wall structure with a sealed gap consisting only of a gaseous material.

CONCLUSION

In view of the foregoing remarks, it is submitted that claims 9, 10, 12-18, 21, 29, 30, 32-37, 40, 41, 43-48, 53, 54 and 56-61 now pending in the application are in condition for allowance. Applicant thus respectfully requests that the instant Amendment be entered and that all pending claims be allowed and this application be entered and that all pending claims be allowed and this application be passed to issuance.

If any outstanding issues remain, or if the Examiner has any suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number below.

The Examiner's attention to this matter is greatly appreciated.

Respectfully submitted,

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Dated: July 8, 2002

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

9. (Amended) A cup assembly having an open end, comprising:

(d) a dual wall cup assembly comprising: (i) an outer cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; and (iii) the inner cup is configured to be receivable within the outer cup to create a sealed gap between side wall of an inner surface of the outer cup and an outer surface of the inner cup and between the bottom walls;

(e) the sealed gap consisting of a gaseous material;

(c) the cup assembly is a child spill-proof cup that has [an externally threaded upper end for] a removably mounting cap thereon, [the cap has a depending collar, the collar has an internal thread adapted to threadedly engage the threaded upper end of the cup, the collar includes an inner flange that extends around the cap concentrically with and inside of the thread,] the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout; and

(d) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about 100 minutes to reach 70°F [compared to a comparable single wall cup when tested by the cup insulation test method].

10. (Amended) A cup assembly having an open end, comprising:

(c) a dual wall cup assembly comprising: (i) an outer cup, consisting of a

thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; and (iii) the inner cup is configured to be receivable within the outer cup to create a sealed gap between side wall of an inner surface of the outer cup and an outer surface of the inner cup and between the bottom walls;

(d) the sealed gap consisting of a gaseous material;

(c) the cup assembly is a child spill-proof cup that has [an externally threaded upper end for] a removably mounting cap thereon, [the cap has a depending collar, the collar has an internal thread adapted to threadedly engage the threaded upper end of the cup, the collar includes an inner flange that extends around the cap concentrically with and inside of the thread,] the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout; and

(d) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about twice the time to reach 70°F compared to a comparable single wall cup when tested by the cup insulation test method.

12. (Amended) A cup assembly having an open end, comprising:

(c) a dual wall cup assembly comprising: (i) an outer cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side

wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; and (iii) the inner cup is configured to be receivable within the outer cup to create a sealed gap between side wall of an inner surface of the outer cup and an outer surface of the inner cup and between the bottom walls;

(d) the sealed gap consisting of a gaseous material;

(c) the cup assembly is a child spill-proof cup that has [an externally threaded upper end for] a removably mounting cap thereon, [the cap has a depending collar, the collar has an internal thread adapted to threadedly engage the threaded upper end of the cup, the collar includes an inner flange that extends around the cap concentrically with and inside of the thread,] the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout; and

(d) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about twice the time to reach 70°F compared to a comparable single wall cup when tested by the cup insulation test method; and

(e) the dual wall assembly provides sufficient impact strength so that the cup assembly does not crack or break when tested by the drop test method.

13. (Amended) A cup assembly having an open end, comprising:

(e) a dual wall cup assembly comprising: (i) an outer cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; (iii) the

side wall thickness of the inner and outer cups are about 0.05 to about 0.06 inches; and
(iv) the inner cup is configured to be receivable within the outer cup to create a sealed
gap between side wall of an inner surface of the outer cup and an outer surface of the
inner cup and between the bottom walls wherein the gap is about 0.06 to about 0.08
inches;

(f) the sealed gap consisting of a gaseous material;

(g) the cup assembly is a child spill-proof cup that has [an externally threaded
upper end for] a removably mounting cap thereon, [the cap has a depending collar, the
collar has an internal thread adapted to threadedly engage the threaded upper end of the
cup, the collar includes an inner flange that extends around the cap concentrically with
and inside of the thread,] the cap has a spout that projects from one side thereof
upwardly, the spout is formed integrally with the cap and includes a front and rear walls
that converge to an outwardly protruding tip of the spout; and

(h) the dual wall assembly provides sufficient insulation ability so that the cup
assembly takes at least about 100 minutes to reach 70°F.

14. (Amended) A cup assembly having an open end, comprising:

(e) a dual wall cup assembly comprising: (i) an outer cup, consisting of a
thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and
[smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an
inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side
wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; (iii) the
side wall thickness of the inner and outer cups are about 0.03 to about 0.08 inches; and
(iv) the inner cup is configured to be receivable within the outer cup to create a sealed

gap between side wall of an inner surface of the outer cup and an outer surface of the inner cup and between the bottom walls wherein the sealed gap is about 0.04 to about 0.1 inches;

(f) the sealed gap consisting of a gaseous material;

(g) the cup assembly is a child spill-proof cup that has [an externally threaded upper end for] a removably mounting cap thereon, [the cap has a depending collar, the collar has an internal thread adapted to threadedly engage the threaded upper end of the cup, the collar includes an inner flange that extends around the cap concentrically with and inside of the thread,] the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout; and

(h) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about 100 minutes to reach 70°F.

15. (Amended) A cup assembly having an open end, comprising:

(c) a dual wall cup assembly comprising: (i) an outer cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; (iii) a curve region at a bottom outside edge of the outer cup having a thickness greater than the wall thickness of the outer cup and a notch in a curve region at a bottom inside edge of the outer cup; and (iv) the inner cup is configured to be receivable within the outer cup to create a sealed gap between side wall of an inner surface of the outer cup and an outer

surface of the inner cup and between the bottom walls;

(d) the sealed gap consisting of a gaseous material;

(c) the cup assembly is a child spill-proof cup that has [an externally threaded upper end for] a removably mounting cap thereon, [the cap has a depending collar, the collar has an internal thread adapted to threadedly engage the threaded upper end of the cup, the collar includes an inner flange that extends around the cap concentrically with and inside of the thread,] the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout; and

(d) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about 100 minutes to reach 70°F.

16.(Amended) A cup assembly having an open end, comprising:

(a) a dual wall cup assembly comprising: (i) an outer cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; (iii) a curve region at a bottom outside edge of the outer cup having a thickness greater than the wall thickness of the outer cup and a notch in a curve region at a bottom inside edge of the outer cup wherein the notch has a minor radius of about 0.02 to about 0.06 inches and a major radius of about 0.1 to about 0.3 inches; and (iv) the inner cup is configured to be receivable within the outer cup to create a sealed gap between side wall of an inner surface of the outer cup and an outer surface of the inner cup and between the bottom

walls; and

(b) the sealed gap consisting of a gaseous material;

(c) the cup assembly is a child spill-proof cup that has [an externally threaded upper end for] a removably mounting cap thereon, [the cap has a depending collar, the collar has an internal thread adapted to threadedly engage the threaded upper end of the cup, the collar includes an inner flange that extends around the cap concentrically with and inside of the thread,] the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout; and

(d) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about 100 minutes to reach 70°F.

17. (Amended) A cup assembly having an open end, comprising:

(a) a dual wall cup assembly comprising: (i) an outer cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; (iii) the side wall thickness of the inner and outer cups are about 0.03 to about 0.08 inches (iv) a curve region at a bottom outside edge of the outer cup having a thickness greater than the wall thickness of the outer cup and a notch in a curve region at a bottom inside edge of the outer cup; and (v) the inner cup is configured to be receivable within the outer cup to create a sealed gap between side wall of an inner surface of the outer cup and an outer surface of the inner cup and between the bottom walls wherein the sealed gap is about

0.04 to about 0.1 inches; and

(b) the sealed gap consisting of a gaseous material;

(c) the cup assembly is a child spill-proof cup that has [an externally threaded upper end for] a removably mounting cap thereon, [the cap has a depending collar, the collar has an internal thread adapted to threadedly engage the threaded upper end of the cup, the collar includes an inner flange that extends around the cap concentrically with and inside of the thread,] the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout; and

(d) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about 100 minutes to reach 70°F.

18. (Amended) A cup assembly having an open end, comprising:

(a) a dual wall cup assembly comprising: (i) an outer cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; and (iii) the inner cup is configured to be receivable within the outer cup to create a sealed gap between side wall of an inner surface of the outer cup and an outer surface of the inner cup and between the bottom walls;

(b) the sealed gap consisting of a gaseous material;

(c) the cup assembly is a child spill-proof cup that has [an externally threaded upper end for] a removably mounting cap thereon, [the cap has a depending collar, the

collar has an internal thread adapted to threadedly engage the threaded upper end of the cup, the collar includes an inner flange that extends around the cap concentrically with and inside of the thread,] the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout, and a valve located adjacent to or incorporated into the spout wherein the valve substantially prevents a liquid from leaking out of the spout; and

(d) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about 100 minutes to reach 70°F.

21. (Amended) A cup assembly having an open end, comprising:

(a) a dual wall comprising: (i) an outer cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall and the top is open; (ii) an inner cup, consisting of a thermoplastic, [having a truncated conical-like shape] with side wall, [larger] top and [smaller] end, the end is closed and sealed by bottom wall; (iii) a curve region at a bottom outside edge of the outer cup having a thickness greater than the wall thickness of the outer cup and a notch in a curve region at a bottom inside edge of the outer cup wherein the notch has a minor radius of about 0.02 to about 0.06 inches and a major radius of about 0.1 to about 0.3 inches; and (iv) the inner cup is configured to be receivable within the outer cup to create a sealed gap between side wall of an inner surface of the outer cup and an outer surface of the inner cup and between the bottom walls

(b) the sealed gap consisting of a gaseous material;

(c) the cup assembly is a child spill-proof cup that has a removably mounting cap

thereon, the cap has a spout that projects from one side thereof upwardly, the spout is formed integrally with the cap and includes a front and rear walls that converge to an outwardly protruding tip of the spout; and

(d) the dual wall assembly provides sufficient insulation ability so that the cup assembly takes at least about 100 minutes to reach 70°F.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Jean-Pierre Giraud
SERIAL NO.: 09/865,792
FILED: May 25, 2001
ATTORNEY DOCKET: 5094.056
TITLE: A DUAL WALL INSULATED
CUP ASSEMBLY AND
METHOD OF
MANUFACTURING AN
INSULATED CUP ASSEMBLY

FAX RECEIVED

JUL 09 2002

GROUP 3700

CERTIFICATE OF FACSIMILE

I hereby certify that an Amendment is being faxed to No. (703) 308-7769 on the date indicated below.

Number of pages including Facsimile cover page 23.

Respectfully submitted,
DREIER & BARITZ LLP

Dated: July 8, 2002


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